



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,575	04/15/2004	Tommi Heinonen	P3002US00	8670
30671 7590 08/25/2010 DITTHAVONG MORI & STEINER, P.C. 918 Prince Street Alexandria, VA 22314				
EXAMINER RAJAN, KAI				
ART UNIT		PAPER NUMBER		
3769				
NOTIFICATION DATE		DELIVERY MODE		
08/25/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

Office Action Summary

Application No.

10/825,575

Applicant(s)

HEINONEN ET AL.

Examiner

Kai Rajan

Art Unit

3769

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23, 33-45, 47, 48, 50 and 51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23, 33-45, 47, 48, 50 and 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/25/2010, 6/14/2010
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The Examiner acknowledges the reply filed June 16, 2010.

Response to Arguments

Applicant's arguments filed June 16, 2010 have been fully considered but they are not persuasive. Applicant contends: 1) the applied prior art fails to disclose a *mobile wireless event handling device*; 2) a *general broadcast emergency signal*; and 3) "general broadcast emergency signal is *adapted for receipt by all mobile wireless event handling devices within communication range of the monitoring device*." The Examiner respectfully disagrees.

Regarding the first point, Russek discloses master alarm control units placed in proximity to patient medical equipment (Column 3 lines 58 – 68, column 4 lines 1 – 6). Russek further states that the master alarm control units may be removed from the patient area and relocated at a nurses' station, or emergency room or other desired location. Since the master alarm control units may be moved about to different locations in the hospital, they comprise "mobile devices." The location of the equipment within a hospital, as noted by Applicant, is immaterial to the rejection since the devices can be moved around and are not limited to fixed installation.

Regarding the second and third points, Russek discloses transmitting a "coded pulse signal" from patient sensors to a master control sent via RF emergency bands, and that multiple master alarm control units can be linked in a network (Column 3 lines 58 – 68, see also column 10 lines 18 – 68, column 11 lines 1 – 11). Russek further states that while networked, master alarm control units share information, so when the patient is moved from an area monitored by

one master alarm control unit to an area monitored by another, information is always accessible (Column 10 lines 55 - 68, column 11 lines 1 - 11). Therefore, the coded pulse signal sent by the alarm generator is receivable by multiple master alarm control units. Since the signal is receivable by more than one receiver, the signal is "general," and is not directed toward one specific recipient, but rather the recipient located in the area of alarm transmission. Applicant asserts that the "general broadcast" is sent to unspecified recipients. This interpretation of the claim language is inconsistent with the written description. Paragraph 0021 of the specification states that mobile event handling devices comprise software enabling event handling capabilities. Therefore, there is a degree of specificity regarding the intended recipients of the signal. Consistent with the teaching of the specification, "general broadcast" is a signal sent to an unspecified recipient, although the recipient must be within a group of receiving devices having sufficient programming to receive the signal. Since the coded pulse signal of Russek is transmitted to whichever master alarm control unit is present in the patient's proximity, rather than to one specific master alarm control unit, Russek teaches a "general broadcast emergency signal."

Additionally, Russek discloses a "general broadcast emergency signal" that is adapted for (or capable of) receipt by all master alarm control units in the monitored area, since Russek teaches the coded pulse signal being received by one master alarm control unit when in one location of a hospital, and receipt by another master alarm control unit when in a different part of a hospital (Column 10 lines 55 - 68). Therefore, the applied prior art is sufficient to reject the claims as currently presented.

Applicant is invited to request an interview to discuss suggested claim amendments to advance prosecution of the case.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 39 is rejected under 35 U.S.C. 101 because a claim to computer readable medium, under the broadest reasonable interpretation, is broad enough to read on a carrier wave, and must be included on a *tangible* or *non-transitory* computer readable medium. A claim directed to a signal per se is non-statutory subject matter because a signal by itself is transitory in nature and is not a machine, manufacture, composition or process.

Note to Applicant Regarding Claim Interpretation

Regarding the interpretation of the claims, “configured to/for,” and “adapted to/for,” are recitations of functional language. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. The Examiner has placed recitations of functional language in *italics*.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 – 12, 14 – 23, 33 – 39, 41 – 45, 47, 48, 50, and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Russek U.S. Patent No. 5,319,355.

1. A method, comprising:

receiving at a mobile wireless event handling device (Column 3 lines 58 – 68, column 4 lines 1 – 6), a first signal via a first network, from a monitoring device on a patient who is separate from the mobile wireless event handling device, the first signal comprising at least a general broadcast emergency signal (Column 4 lines 51 – 65, column 5 lines 60 – 68, see also column 10 lines 55 – 68, column 11 lines 1 – 11 coded pulse signal is transmitted from the patient to master units) and including information corresponding to physiological parameters and an identification of the monitoring device (Column 4 lines 51 – 65 coded pulse signal includes identification information for the patient, equipment, and location); and

causing, at least in part, transmission from the mobile wireless event handling device to a third party, a second signal via a second network, the second signal including at least information corresponding to the identification of the monitoring device (Column 4 lines 51 – 65, column 5 lines 32 – 56 master units transmit coded signals to pagers for doctors, nurses, or emergency response).

Note to Applicant: see previous office action for rejection of unaddressed dependent claims, as they are rejected on substantially the same basis.

Claims 12, 33, and 39 are rejected on substantially the same basis as claim 1 by Russek.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russek U.S. Patent No. 5,319,355 as applied to claims 1 and 12 above in view of Haller et al. U.S. PGPub No. 2002/0052539.

In regards to claims 2 and 13, Russek discloses external devices for monitoring heart rate or EKG such as Hater monitors (Russek column 7 lines 38 – 42, column 8 lines 1 – 13), yet fails to disclose an implanted monitor. However, Haller et al. a reference in an analogous art for recording heart signals discloses external or implanted heart rate monitors (Haller et al. paragraph 0240). It would have been obvious to one of ordinary skill in the art at the time of the

invention to substitute the external devices of Russek with the implanted monitor of Haller et al., since Haller et al. discloses the two as interchangeable (Haller et al. paragraph 0240).

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russek U.S. Patent No. 5,319,355 as applied to claim 1 above.

Regarding claim 40, Russek teaches transmitting signals from a master control (event handling device) to pagers including "information as to the location, patient name, equipment identification and/or other relevant information provided directly from the medical equipment" (Russek column 5 lines 32 – 56). Russek fails to disclose transmitting information identifying the master control to the pagers. However, it would have been obvious to one of ordinary skill at the time the invention was made to include supplemental identifying information such as the source of a data transmission. First, transmitting identifying information is known in the art of data transmission, especially in RF and cellular transmissions such as those used in Russek. Second, Russek states that additional information may be included in transmissions (see above). Third, the master control transmits the information to pagers, which are known to display data of the sender including caller ID information, which would identify the master control. Finally, while Applicant's specification states in paragraph 0019 that event handling device identification data can be added to transmissions, there is no advantage or necessity discussed for such a feature, and thus is considered nonessential to the functionality of the invention.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kai Rajan whose telephone number is (571)272-3077. The examiner can normally be reached on Monday - Friday 9:00AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Johnson can be reached on 571-272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kai Rajan/
Examiner, Art Unit 3769

/Henry M. Johnson, III/
Supervisory Patent Examiner, Art Unit
3769

August 19, 2010